

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
January 12, 2010

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins. Joe Brown and Bill Morrison were absent.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Randel McCarty, from Cathedral of Praise.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTH SIDE OF FAXON AVENUE; +/-472.60 FEET EAST OF NATIONAL STREET, CONTAINING 0.229 ACRE IN THE DUPLEX RESIDENTIAL (R-D) DISTRICT.**

Case No. UV 09-06

Held until January 26, 2010

33. **RESOLUTION HONORING THE LIFE OF JOHN SHELTON WILDER.**

Held until January 26, 2010

1. **RESOLUTION COMMENDING ANAYA SUGGS WHOSE HEROIC ACTIONS SAVED THE LIVES OF HER FAMILY MEMBERS. (HELD FROM 12/15/09).**

Held until January 26, 2010

MINUTES

Approval of the Minutes of the regular meeting of December 15, 2009 with the following motion:

MOTION: Ford
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Brown and Morrison were absent

APPROVED

2. **RESOLUTION HONORING MR. JIM ETHRIDGE ON HIS NOMINATION INTO THE TENNESSEE AERONAUTICAL HALL OF FAME.**

MOTION: Conrad
SECOND: Flinn

APPROVED, unanimous voice vote

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF RIVERDALE ROAD; +/-395.66 FEET NORTH OF HOLMES ROAD, CONTAINING 0.74 ACRE (32,234 SQ. FT.) AND IS CURRENTLY GOVERNED BY VILLAGES OF BENNINGTON PLANNED DEVELOPMENT, 2ND AMENDMENT (P.D. 02-332CC).**

Case No. PD 09-323cc

Applicant: Arnett CarWash, LLC
Prime Development Group, Inc. – Representative

Request: Plan amendment to allow outdoor vending for an ice house facility

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Ware
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Brown and Morrison were absent

APPROVED

31. **RESOLUTION COMMENDING FOUR TENNESSEE TITANS MR. FOOTBALL AWARD WINNERS FROM MEMPHIS, INCLUDING ANTHONY HAYES OF WHITE STATION HIGH SCHOOL, JOHNATHAN BROWN OF CHRISTIAN BROTHERS HIGH SCHOOL, STEVEN STAFFORD OF EVANGELICAL CHRISTIAN SCHOOL IN CORDOVA AND BARRY BRUNETTI OF MEMPHIS UNIVERSITY SCHOOL.**

MOTION: Collins
SECOND: Ford

APPROVED, unanimous voice vote

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHEAST CORNER OF MALLORY AVENUE AND LAUDERDALE STREET, CONTAINING 0.34 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 09-209

Applicant: Kalid Ibrahim and Salah Abdilahi
Brenda Solomito, Solomito Land Planning – Representative

Request: Motor Vehicle Service

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Hedgepeth
AYES: Conrad, Ford, Fullilove, Halbert, Lowery Ware and Chairman Collins
Boyd, Flinn, Hedgepeth and Strickland did not cast a vote
Brown and Morrison were absent

APPROVED

6. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE SOUTH SIDE OF BROAD STREET, 195 FEET EAST OF LIPFORD STREET, CONTAINING 0.63 ACRE IN THE SINGLE FAMILY RESIDENTIAL INFILL (R-S6I) DISTRICT.**

Case No. UV 09-07

Applicant: Christ Community Health Services, Inc.
Fisher & Arnold, Inc. – Representative

Request: A use variance to permit parking within the R-S6I Zoning District located behind the existing building at 2953 Broad Avenue to serve a proposed medical clinic

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware
and Chairman Collins
Conrad recused
Brown and Morrison were absent

APPROVED

7. **ORDINANCE REZONING THE SOUTHWEST CORNER OF SHELBY DRIVE AND RIVERDALE ROAD, CONTAINING +1.75 ACRES IN THE MULTIPLE DWELLING RESIDENTIAL (R-ML) DISTRICT, UP FOR T H I R D AND F I N A L READING.**
Ordinance No. 5339
Case No. Z 09-105

Applicant: Capleville United Methodist Church
SR Consulting, LLC (Cindy Reaves) – Representative

Request: Planned Commercial (C-P) with a site plan for a CVS Pharmacy

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland, Ware and
Chairman Collins
Hedgepeth did not cast a vote
Brown and Morrison were absent

APPROVED, as amended

8. **ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE. THE FOLLOWING ITEM WAS HEARD AND UNANIMOUSLY APPROVED BY THE LAND USE CONTROL BOARD ON NOVEMBER 12, 2009, UP FOR T H I R D AND F I N A L READING.**
Ordinance No. 5340
Case No. ZTA 09-002cc

Request: Amend the Memphis and Shelby County Zoning Ordinance
Regulations as follows:

1. Amend Appendix A, Zoning Section 2 to add new definitions for “Family Recreation Center” and “Park”.
2. Amend Chart I, Footnote 18, requiring adult entertainment to be located a minimum distance of 1,500 feet from certain identified uses to add “Family Recreation Center” as one of the identified uses.

LUCB and OPD recommendation: APPROVAL

MOTION: Ford

SECOND: Ware

AYES: Boyd, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland, Ware and Chairman Collins
Conrad recused
Hedgepeth did not cast a vote
Brown and Morrison were absent

APPROVED

CONSENT AGENDA – Items 9 - 12 may be acted upon by one motion: SEE PAGE 1359 ROLL CALL

9. **TECHNICAL CORRECTION ORDINANCE FOR CLERICAL ERRORS ON ORDINANCES PREVIOUSLY PASSED AND SIGNED, BUT NOT YET CODIFIED AS FOLLOWS: ORDINANCE NO. 5223, SELL OF BEER OFF PREMISES, ORDINANCE NO. 5317, INSPECTION OF MOTOR VEHICLES AND ORDINANCE NO. 5327, BOARD OF ETHICS MEMBERSHIP REQUIREMENTS, UP FOR S E C O N D READING.**

Ordinance No. 5343

APPROVED, on Second reading

10. **ORDINANCE REZONING THE NORTHWEST CORNER OF NORTH BELLEVUE AND SMITH AVENUE, CONTAINING 0.26(11,325.60 SQ. FT.) IN THE LOCAL COMMERCIAL (C-L) DISTRICT, UP FOR S E C O N D READING.**

APPROVED, on Second reading

11. **RESOLUTION ACCEPTING THOMAS COUNTRY P.D., PHASE 1, AREA B AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 06-348
(Contract No. CR-5098)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on Houston Levee at Pisgah Road. The standard improvement contract was approved on September 6, 2005. Resolution also authorizes the release of the performance bond in the amount of \$866,300.00.

City Engineer recommends approval

APPROVED

12. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. UV 09-05
- B. Case No. S 09-012 – Fairway Subdivision
- C. Case No. S 09-013 – Gaskell Industrial Subdivision, Resubdivision of Lot 3

Public Hearing Set for January 26, 2010

ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Hedgepeth
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Ware and
Chairman Collins
Hedgepeth and Strickland did not cast a vote
Brown and Morrison were absent

APPROVED

MLGW FISCAL CONSENT – Items 13-20 & 22-26 may be acted upon by one motion:

13. **RESOLUTION AWARDED CONTRACT NO. 11314, ARMORED CAR SERVICES, TO LOOMIS ARMORED US, INC. IN THE FUNDED AMOUNT OF \$432,686.80.**

APPROVED

14. **RESOLUTION AWARDED CONTRACT NO. 11381, JANITORIAL SERVICES, TO KIMCO CORPORATION, INC. IN THE FUNDED AMOUNT OF \$3,650,340.00.**

APPROVED

15. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11193, JANITORIAL SERVICES, WITH KIMCO CORPORATION, INC. IN THE FUNDED AMOUNT OF \$212,936.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, FEBRUARY 28, 2010 TO MARCH 1, 2011, WITH NO INCREASE IN RATES FROM THE PREVIOUS YEAR).**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11097, GROUNDS AND LANDSCAPING SERVICES, WITH ENVIRONMENTAL LANDSCAPE IN THE FUNDED AMOUNT OF \$77,844.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, APRIL 5, 2010 TO APRIL 4, 2011, WITH NO INCREASE IN RATES FROM THE PREVIOUS YEAR).**

APPROVED

17. **RESOLUTION APPROVING CHANGE NO. 3 TO CONTRACT NO. 11190, MOWING – GROUNDS MAINTENANCE WELL LOTS, WITH BEAN & PRINCE CONTRACTORS, INC. IN THE FUNDED AMOUNT OF \$7,118.14, FOR A TOTAL CONTRACT VALUE OF \$185,271.27. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, MAY 17, 2010 TO MAY 16, 2011, WITH NO INCREASE IN RATES FROM THE PREVIOUS YEAR).**

APPROVED

18. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11258, GROUNDS MAINTENANCE, WITH BEAN & PRINCE CONTRACTORS, INC. IN THE FUNDED AMOUNT OF \$617,752.45. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, MAY 16, 2009 TO MAY 15, 2010, WITH NO INCREASE IN RATES FROM THE PREVIOUS YEAR).**

APPROVED

19. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11185, ENVIRONMENTAL CONSULTING SERVICES, WITH CENTER FOR TOXICOLOGY AND ENVIRONMENTAL HEALTH IN THE FUNDED AMOUNT OF \$175,000.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, JANUARY 1, 2010 TO DECEMBER 31, 2010, WITH NO INCREASE IN RATES).**

APPROVED

20. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11070, UTILITY METER DATA APPLICATION, WITH AUTOMATED ENERGY, INC. (AEI) IN THE FUNDED AMOUNT OF \$36,000.00. (THIS CHANGE COVERS A ONE-YEAR EXTENSION, JANUARY 1, 2010 TO DECEMBER 31, 2010, TO PROVIDE THE WEB-BASED METER DATA ANALYSIS PRODUCT KNOWN AS “LOAD PROFILER” (“METER INTELLIGENCE”).**

APPROVED

21. **RESOLUTION AWARDING 24-MONTH CONTRACTS FOR ELECTRIC METERS AS FOLLOWS:**

Landis & Gyr c/o Stuart C. Irby.....	\$773,160.00
H D Supply Company.....	<u>278,375.00</u>
Total.....	<u>\$1,051,535.00</u>

Sent Back to Committee for January 26, 2010

22. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11134, INTEGRATOR SERVICE FOR ARLINGTON AND CAPLEVILLE LNG PLANTS, WITH LOGICAL SYSTEMS, INC. IN THE FUNDED AMOUNT OF \$15,000.00, FOR A NEW CONTRACT VALUE OF \$56,550.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS, JANUARY 21, 2010 TO JANUARY 20, 2011, WITH NO INCREASE IN RATES FROM THE PREVIOUS YEAR).**

APPROVED

23. **RESOLUTION APPROVING CHANGE NO. 7 TO CONTRACT NO. 10765, PRIVATE LABEL SERVICE AGREEMENT, WITH ACLARA SOFTWARE IN THE FUNDED AMOUNT OF \$1,803,223.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE PERIOD JANUARY 1, 2010 TO DECEMBER 31, 2014, AND ALSO ADDS MY ACCOUNT WEB TOOLS FOR LARGER COMMERCIAL CUSTOMERS CURRENTLY NOT SERVED BY EXISTING APPLICATIONS AS WELL AS THE CUSTOMIZATION AND IMPLEMENTATION OF A WEB-BASED DASHBOARD TOOL THAT WILL ENABLE LARGER COMMERCIAL CUSTOMERS TO ACCESS ADDITIONAL RESOURCES UNDER MY ACCOUNT. THIS CONTRACT WILL AUTOMATICALLY BE EXTENDED FOR AN ADDITIONAL 12-MONTH PERIOD UNLESS EITHER PARTY PROVIDES 30-DAY WRITTEN NOTICE OF A DESIRE NOT TO EXTEND THE TERM).**

APPROVED

24. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO. 11109, SYSTEMS FURNITURE, WITH CORPORATE EXPRESS & STAPLES COMPANY IN THE FUNDED AMOUNT OF \$249,758.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE THIRD OF FOUR RENEWAL TERMS, JANUARY 1, 2010 TO DECEMBER 31, 2010, WITH NO INCREASE IN RATES).**

APPROVED

25. **RESOLUTION APPROVING CONTINUED PARTICIPATION IN AND PAYMENT OF ANNUAL MEMBERSHIP DUES TO TENNESSEE ONE-CALL SYSTEM, INC. IN THE AMOUNT OF \$79,314.29.**

APPROVED

26. **RESOLUTION APPROVING PAYMENT OF REVISED MEMBERSHIP FEES ACCRUED IN 2008 TO OPERATIONS TECHNOLOGY DEVELOPMENT IN THE AMOUNT OF \$26,529.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Fullilove
SECOND: Ware
AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Lowery, Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote
Brown and Morrison were absent

APPROVED, with the exception of #21

36. **RESOLUTION APPROVING THE EMPLOYMENT OF MR. VON W. GOODLOE AS VICE PRESIDENT, HUMAN RESOURCES OF MEMPHIS LIGHT, GAS AND WATER DIVISION AT AN ANNUAL SALARY OF \$144,019.20.**

MOTION: Fullilove
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote
Brown and Morrison were absent

APPROVED

27. **ORDINANCE FIXING TAX RATE OF THE CITY OF MEMPHIS FOR THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS, UP FOR T H I R D AND F I N A L READING. (HELD FROM 7/7; 7/21; 8/4; 8/18; 9/1; 9/15; 10/6; 11/3; 11/17; 12/1; 12/15)**

Ordinance No. 5319

Chairman Collins recognized the following person who spoke from the audience:

Charles Farmer, 4611 Buffer Dr., Memphis, TN. 38128

(Councilman Lowery made a substitute motion to wait and let the courts rule on this item, before Council takes any actions).

(Special Item #1)

MOTION: Lowery
SECOND: Hedgepeth
AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery and Ware
NAYS: Flinn, Strickland and Chairman Collins
Brown and Morrison were absent

APPROVED

(Council Attorney Alan Wade stated that since this item was mooted at the December 16, 2009 Meeting, this Ordinance is DROPPED from the Agenda).

28. **ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, OF THE CODE OF ORDINANCES, TO ESTABLISH REQUIREMENTS FOR A CITY OF MEMPHIS FLEET AND EMPLOYEE TAKE HOME VEHICLES, UP FOR T H I R D AND F I N A L READING. (HELD FROM 8/4; 8/18; 9/1; 9/15; 12/1)**

Ordinance No. 5323

Held until January 26, 2010

29. **ORDINANCE TO AMEND CHAPTER 25, SECTION 15-181 SO AS TO REVISE AND CLARIFY SECTIONS OF THE PENSION AND RETIREMENT PLAN, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5341

MOTION: Strickland

SECOND: Fullilove

AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Strickland and
Chairman Collins

Halbert and Ware did not cast a vote

Brown and Morrison were absent

APPROVED

30. **RESOLUTION AMENDING THE FY2010 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$67,352.00 FUNDED BY SEWER REVENUE BONDS FROM MISCELLANEOUS SUBDIVISION OUTFALL, PROJECT NUMBER SW01001 TO SUMMER RALEIGH S/D SW EXTENSION, PROJECT NUMBER SW01030. RESOLUTION ALSO APPROPRIATES \$67,352.00 FUNDED BY SEWER REVENUE BONDS FOR SUMMER RALEIGH S/D SW EXTENSION, PROJECT NUMBER SW01030 FOR A CONSTRUCTION CONTRACT WITH ROY HOLMES CONSTRUCTION.**

MOTION: Boyd

SECOND: Fullilove

AYES: Boyd, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and
Chairman Collins

Conrad did not cast a vote

Brown and Morrison were absent

APPROVED

32. **RESOLUTION HONORING THE MISSION OF FRIENDS FOR LIFE AND THE POSITIVE IMPACT IT HAS ON THOSE LIVING WITH HIV/AIDS.**

Held until January 26, 2010

34. **RESOLUTION AUTHORIZING THE APPLICATION TO THE FEDERAL FOREIGN-TRADE ZONES BOARD FOR FOREIGN-TRADE SUBZONE STATUS FOR DELTA FAUCET COMPANY OF TENNESSEE (“DELTA FAUCET”) IN JACKSON, TENNESSEE.**

MOTION: Boyd

SECOND: Conrad

AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Ware and
Chairman Collins
Flinn and Strickland did not cast a vote
Brown and Morrison were absent

APPROVED

35. **RESOLUTION REALLOCATING AND APPROPRIATING \$1,623,550.00 FUNDING FROM FY2010 CIP BUDGET FOR MEMPHIS ANIMAL SHELTER, PROJECT NUMBER PS01010, TO ESTABLISH FUNDING TO IMPLEMENT PHASE I OF THE BEAUTIFICATION OF THE MEMPHIS INTERNATIONAL AIRPORT PERIMETER, PROJECT NUMBER CD1082.**

MOTION: Conrad

SECOND: Ford

AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Brown and Morrison were absent

APPROVED

(Councilman Conrad made to motion to approve Same Night Minutes on Items #34, #35 & #36 from tonight’s meeting)

(Special Item #2 – Minutes for items #34, #35 & #36)

MOTION: Conrad

SECOND: Boyd

AYES: Boyd, Conrad, Flinn, Halbert, Lowery, Strickland, Ware and Chairman Collins
Ford, Fullilove and Hedgepeth did not cast a vote
Brown and Morrison were absent

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following people who spoke from the audience:

Charles W. Farmer, 4611 Buffer Dr., Memphis, TN. 38128

Walter Broady, 4256 Ledbetter Cove, Mphs, TN. 38109

ADJOURNED MEETING AT 5:25 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records